

Senate Chamber, Atlanta, Georgia  
Wednesday, January 24, 2007  
Seventh Legislative Day

The Senate met pursuant to adjournment at 10:00 a.m. today and was called to order by the President.

Senator Balfour of the 9th reported that the Journal of the previous legislative day had been read and found to be correct.

By unanimous consent, the reading of the Journal was dispensed with.

The Journal was confirmed.

The following Senate legislation was introduced, read the first time and referred to committee:

SB 40. By Senators Staton of the 18th, Williams of the 19th, Rogers of the 21st, Johnson of the 1st, Shafer of the 48th and others:

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries generally, so as to increase the penalties for certain election related offenses involving fraudulent acts; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Ethics Committee.

SB 41. By Senators Harp of the 29th, Hamrick of the 30th, Adelman of the 42nd and Meyer von Bremen of the 12th:

A BILL to be entitled an Act to amend Code Section 9-11-4 of the Official Code of Georgia Annotated, relating to process in civil practice, so as to provide for service upon persons residing in gated and secured communities; to provide for filing the return of service; to provide for state-wide registration of permanent process servers; to change certain provisions relating to process in civil practice; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Special Judiciary Committee.

SB 42. By Senators Harp of the 29th, Thomas of the 54th and Tolleson of the 20th:

A BILL to be entitled an Act to amend Article 1 of Chapter 11 of Title 19 of the Official Code of Georgia Annotated, relating to the "Child Support Recovery Act," so as to authorize the Department of Human Resources to impose fees on child support collections; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 43. By Senators Rogers of the 21st, Whitehead, Sr. of the 24th, Williams of the 19th, Johnson of the 1st, Heath of the 31st and others:

A BILL to be entitled an Act to amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to carrying and possession of firearms, so as to prohibit certain employers from prohibiting employees from lawfully carrying and possessing firearms in locked motor vehicles; to provide for immunity for employers who allow employees to possess firearms in locked vehicles on the premises of such employer; to provide for civil remedies; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SR 5. By Senators Shafer of the 48th, Pearson of the 51st, Rogers of the 21st, Heath of the 31st, Hill of the 32nd and others:

A RESOLUTION proposing an amendment to the Constitution so as to restrict amendments that increase appropriations made by the General Appropriations Act; to provide for a short title; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

Referred to the Finance Committee.

SR 66. By Senators Staton of the 18th, Williams of the 19th, Johnson of the 1st, Shafer of the 48th, Chance of the 16th and others:

A RESOLUTION creating the Senate Study Committee on the Shortage of Doctors and Nurses in Georgia; and for other purposes.

Referred to the Health and Human Services Committee.

SR 68. By Senator Williams of the 19th:

A RESOLUTION to dedicate the William H. "Sonny Boy" Skipper Maintenance Headquarters; and for other purposes.

Referred to the State Institutions and Property Committee.

SR 71. By Senators Shafer of the 48th, Rogers of the 21st, Mullis of the 53rd, Smith of the 52nd, Harp of the 29th and others:

A RESOLUTION creating the Senate Study Committee on Alcohol Regulations; and for other purposes.

Referred to the Regulated Industries and Utilities Committee.

The following committee reports were read by the Secretary:

Mr. President:

The Economic Development Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SR 49 Do Pass

Respectfully submitted,  
Senator Pearson of the 51st District, Chairman

Mr. President:

The Finance Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 8 Do Pass by substitute

Respectfully submitted,  
Senator Rogers of the 21st District, Chairman

Mr. President:

The Transportation Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 19      Do Pass

Respectfully submitted,  
Senator Mullis of the 53rd District, Chairman

The following legislation was read the second time:

SB 11      SB 15      SB 18      SB 24

Senator Henson of the 41st asked unanimous consent that Senator Adelman of the 42nd be excused. The consent was granted, and Senator Adelman was excused.

Senator Golden of the 8th asked unanimous consent that Senator Thompson of the 33rd be excused. The consent was granted, and Senator Thompson was excused.

The roll was called and the following Senators answered to their names:

Balfour	Henson	Schaefer
Brown	Hill,Jack	Seabaugh
Butler	Hill,Judson	Seay
Carter	Hooks	Shafer,D
Chance	Hudgens	Smith
Chapman	Johnson	Staton
Cowsert	Jones	Stoner
Davenport	Me V Bremen	Tarver
Douglas	Moody	Tate
Fort	Mullis	Thomas,D
Goggans	Murphy	Thomas,R
Grant	Orrock	Thompson,C
Hamrick	Pearson	Tolleson
Harbison	Powell	Unterman
Harp	Ramsey	Whitehead
Hawkins	Reed	Wiles
Heath	Rogers	Williams

Not answering were Senators:

Adelman (Excused)	Bulloch	Golden
Thompson, S (Excused)	Weber	

The following members were off the floor of the Senate when the roll was called and wish to be recorded as present:

Senators:           Golden                           Bulloch

The members pledged allegiance to the flag.

Senator Hudgens of the 47th introduced the chaplain of the day, Dr. James Akins of Winterville, Georgia, who offered scripture reading and prayer.

The following resolutions were read and adopted:

SR 74.    By Senators Johnson of the 1st, Williams of the 19th, Brown of the 26th, Hooks of the 14th, Harbison of the 15th and others:

A RESOLUTION commending the Georgia General Assembly Fiscal Office Maintenance Staff; and for other purposes.

Senators Hooks of the 14th and Johnson of the 1st recognized the Georgia General Assembly Fiscal Office Maintenance Staff commended by SR 74.

SR 67.    By Senators Staton of the 18th, Brown of the 26th, Meyer von Bremen of the 12th, Harp of the 29th and Hooks of the 14th:

A RESOLUTION commending President William D. Underwood of Mercer University; and for other purposes.

SR 69.    By Senators Meyer von Bremen of the 12th and Hooks of the 14th:

A RESOLUTION honoring and remembering the life of Dr. Frank Dempsey Guillebeau; and for other purposes.

SR 70.    By Senators Seay of the 34th, Reed of the 35th, Whitehead, Sr. of the 24th, Cowsert of the 46th, Thompson of the 33rd and others:

A RESOLUTION commending and congratulating quarterback Donald Eugene "D.J." Shockley, Jr.; and for other purposes.

SR 72. By Senator Balfour of the 9th:

A RESOLUTION commending Mitchell Esswein; and for other purposes.

SR 73. By Senators Harp of the 29th and Harbison of the 15th:

A RESOLUTION commending Reverend Albert McCorvey, Sr., for his life of dedicated service to his church and recognizing him on the occasion of his retirement; and for other purposes.

Senator Staton of the 18th recognized the Northside High School Eagles football team and head coach Conrad Nix, commended by SR 61, adopted previously. Conrad Nix addressed the Senate briefly.

Serving as doctor of the day was Dr. Elizabeth Street.

Senator Williams of the 19th moved that upon the dissolution of the Joint Session the Senate stand adjourned until 10:00 a.m. Thursday, January 24, 2007.

The President announced the motion prevailed at 11:02 a.m.

The hour for convening the Joint Session of the Senate and House having arrived, the President, accompanied by the Secretary and Senators, proceeded to the Hall of the House of Representatives, and the Joint Session, called for the purpose of hearing a message by Honorable Leah Ward Sears, Chief Justice of the Supreme Court, was called to order by the Speaker of the House. HR 41 authorizing the Joint Session of the Senate and House was read by the Clerk of the House.

Honorable Leah Ward Sears, Chief Justice of the Supreme Court, addressed the Joint Session of the Senate and the House of Representatives as follows:

Speaker Richardson, Lieutenant Governor Cagle, President Pro Tem Johnson, Speaker Pro Tem Burkhalter, and other distinguished members of the General Assembly.

Ladies and gentlemen.

Today is my second opportunity to address you as your Chief Justice. I am here to discuss the state of Georgia's judiciary. This message serves four important purposes:

- 1) It reminds us of the vital mission of the judicial branch to administer justice under the law equally to all.

- 2) It reaffirms our partnership with the legislative and executive branches in identifying and allocating the resources and tools we need to carry out our mission.
- 3) It gives us a public opportunity to express the judicial branch's thanks and appreciation for your positive and constructive role in this trilateral partnership.
- 4) Finally, it is the best forum I have to share with you and the people of Georgia our assessment of the state's judicial system.

During my very busy first year as chief justice, I have enjoyed the unwavering support of my colleagues, the other justices of the Supreme Court of Georgia. I want to take this opportunity to thank Presiding Justice Carol Hunstein, Former Chief Justice Robert Benham, and Justices George Carley, Hugh Thompson, Harris Hines and Harold Melton for their wise counsel and friendship. I am also indebted to all of the judges of the Court of Appeals of Georgia, now being ably lead by Chief Judge Anne Barnes. I'm grateful to Judge Jack Ruffin, who served as the Chief Judge of the Court of Appeals for the past two years. It was a pleasure to serve beside a leader of his intelligence, managerial wisdom and wit.

I also want to express special appreciation for the distinguished members of the Judicial Council, some of whom are present, including Judge Billie Boyett, President of the Council of Superior Court Judges, Judge Ben Studdard, President of the Council of State Court Judges, Judge Betty Cason, President of the Council of Probate Court Judges, Judge Stephen Andrews, President of the Council of Juvenile Court Judges and Judge Velma Tilley, incoming president of that council, and Judge Thomas Bobbitt, President of the Council of Magistrate Court Judges. Also present is Judge Michael Cielinski, President of the Council of Municipal Court Judges.

I have two members of my family here. My mother, Onnye Jean Sears, and my husband and best friend, Haskell Ward of Griffin, Georgia, are sitting in the balcony. Thank you for being here as well as for all the nurturing and loving care you've both poured into my life.

This year I am proud to report that the state of the judicial branch of government in Georgia remains solid, sound and stable. In the halls of justice throughout the state, I have witnessed first hand first rate judges, court staff and lawyers working together to provide for the peaceful resolution of disputes, to protect constitutional rights, and to uphold the rule of law. Their commitment to Georgia is remarkable and gratifying.

An ancient Greek philosopher once said, "nothing endures but change." And Robert Zimmerman, better known to some as Bob Dylan, captured the mood of a generation in the 1960s when he sang "The Times They Are A-Changin'." The demands placed on the

courts of Georgia during the last decade bear witness to both of their statements as the judiciary has had to find new ways to address the growing problems associated with illegal drugs, violence, and children living in turmoil.

### DRUG COURTS

For example, when I was a superior court judge in the late 1980s, crack cocaine usage was becoming a menace in many of Georgia's neighborhoods. And while crack remained a major problem in the 1990s, methamphetamine usage also soared to epidemic proportions. Our courtrooms were inundated with offenders charged with the possession and purchase of controlled substances. As court calendars became more and more crowded, and as our jails and prisons began to run out of room, it became apparent that substance abuse and drug addiction were going to be particularly difficult to resolve by traditional court methods and procedures alone. We realized that if we wanted to resolve these types of cases we would have to change our approach.

Several years ago you began to help us fund drug treatment courts, courtbased diversion and treatment programs for drug offenders. Defendants who are able to maintain sobriety are assisted in their efforts to return to their work places, to compensate the victims of their crimes and to return to their families. I want to emphasize that this not a "hugs for thugs" program. There is nothing easy about what drug court participants have to do and nothing half-hearted about the consequences of failure. Significant restrictions are placed on drug court participants. They are held accountable for their behavior, for example, by constant drug and alcohol testing, frequent status hearings and stringent curfews. And if they fail the program, they face imprisonment. This program is also only available for drug addicts – drug dealers go to prison just like they have in the past. One study has indicated that for every dollar spent on drug courts ten dollars of taxpayer money is saved.

Georgia now has 46 drug treatment courts, and I am very pleased to report that these courts have been a resounding success – Georgia's drug court graduates have one of the lowest recidivism rates in the country. During 2006 about 3,300 Georgian's were actively involved in drug court programs, and almost 875 have graduated.

But academic descriptions of this type of court don't tell the whole story. Let me tell you about an individual who has turned his life around with the help of the Cobb County Adult Drug Treatment Court Program.

Rodney Hewatt was raised in a fairly typical middle class family. He graduated from high school, got married and at least before drugs began to take their toll, he was making a good living as an electrician. But after he and his wife divorced, Rodney got involved with drugs. After awhile, he lost his job, his children and all hope.



Rodney was finally arrested for possession of crack cocaine after using the drug for almost 15 years. In May 2005, he entered the Cobb County Drug Court program.

Rodney's life is now back on track. He is sober. He is gainfully employed. He is once again a good father to his children. And most important, his sense of hope has been restored. I commend him, as well as countless others, who have had the courage and strength to unloose the grip of addiction. Rodney, would you please stand so we can celebrate your renewed health and happiness.

Drug courts require the intensive involvement and commitment of good judges. Judge George Kreeger, who presided over Rodney's participation in the drug court and who is the judicial director of Cobb County's drug court, says that this program has given him hope for the first time in his judicial career. The work that Judge Kreeger does every day affects lives, not just individual lives, but the lives of entire communities. Judge Kreeger has shown an extraordinary commitment to the program and has been instrumental in keeping adult drug treatment courts going. Judge, would you please stand and accept our appreciation for all of the work that you have done.

### BUSINESS COURTS

Georgia has a long tradition of being a business friendly state. That has served our state's economy well. Business friendly states are better able to attract new businesses and retain existing ones.

Legal disputes are a fact of life in the business community. And when disputes arise, companies need assurance that they will be handled efficiently, expeditiously and competently. Georgia has a strong court system with many outstanding judges. However, in the last few years some of our trial courts have been stretched thin because the same judges who hear business related cases must also hear criminal cases and domestic relations cases.

In several states, specialized business courts have been better able to meet the needs of the business community. We hope that through our Business Court Pilot Program, presently being developed in Fulton County, one day soon Georgia companies, as well as companies that may decide to locate in here, will benefit because our state's business friendly policies will be more widely reflected in our court system.

### ACCESS TO CIVIL JUSTICE

The judicial branch is also working hard to respond to societal needs through innovations in our civil justice system. Former United States Supreme Court Justice Hugo Black once said that "there can be no equal justice where the kind of trial a man gets depends on the

amount of money he has.” Yet every year we see more and more Georgians trying to navigate the legal system on their own because they can’t afford to hire a lawyer to help them.

In any given year nearly 40% of our middle and lower income citizens has at least one civil legal need. But only one in every ten is able to secure legal representation. This means that 90% of our most vulnerable citizens have no one to represent them while they are trying to handle some of the most important issues of their lives, such as access to affordable housing and medical benefits.

Georgia has a wonderful array of lawyers and other professionals who regularly donate their time and money to those in need of legal services. I can’t tell you how grateful and proud I am of their generosity. They provide millions of dollars each year in pro bono legal services. However, there is only so much that they can do.

Last year the Supreme Court established the Committee on Civil Justice to develop and support policy initiatives to expand access to justice to all Georgians. The committee, chaired by Marc Gary of BellSouth and Anne Lewis of the law firm of Strickland, Brockington and Lewis, includes professionals from all walks of life, including some of your colleagues in the House and Senate. It has been meeting for the past six months and has already started devising ways to close the legal services gap in this state. I thank them for the work that they have already done as well as for the strides that they will make to ensure access to legal services for more Georgians in the future.

### JUDICIAL INDEPENDENCE

Our form of government, based on a system of checks and balances, is now the model for the world. For as long as our nation has existed, this separation of powers has worked to protect and defend our freedoms. For the sake of our nation’s well-being, we must do everything we can to make sure that we protect this vital delicate balance.

Our progress as a nation has in large part been forged by a judiciary that is able to act without concern for the day to day politics that most election-focused lawmakers must be aware of. And that is a good thing. Imagine if judges could be removed from the bench simply because some influential person or special interest group disagreed with their decisions. Imagine a country where the falsely accused did not have a fair opportunity to vindicate themselves in court because judges ignored the law and instead followed the court of public opinion. Imagine a country where citizens did not have an impartial forum in which to seek redress of grievances against more powerful or popular interests.

Of course the unique role that the courts have played in our three tier system of government does not mean that judges aren’t accountable for their actions and that their opinions aren’t subject to criticism. To the contrary. It is a sign of a healthy democracy

when the public is engaged with the workings of the judicial system. Moreover, judges are always accountable. In rendering our decisions we are required to follow the law and the Constitution and are not free to simply impose our own personal beliefs. Additionally, trials and hearings in all but the most extraordinary circumstances are open to the public. Court papers are publicly filed and are, increasingly, available on-line. Individual decisions can be and are appealed, further offering oversight and accountability. Appellate judges have to write out their reasons and publish their opinions for all to see. And, of course, the legislature always has the authority under our system of government to redraft a law if it disagrees with how it has been interpreted by the courts. Judges are also subject to discipline for even minor infractions and can be removed from the bench for more serious transgressions.

Fortunately the people of Georgia seem to cherish the wisdom of this separation of powers. And they have shown time and again that they also believe that a sense of fairness, justice and impartiality must be woven into the fabric of everyone who would call themselves a judge. It is fundamental. It is compelling. It is not negotiable. And it is nonpartisan.

#### FISCAL CONCERNS

For the past several years our judicial system has responded to the increasing demands placed upon it with little more than the same number of employees receiving little more than the same level of compensation. Our judges, for example, have not received a pay raise since 1999. We have accomplished this through dedication and hard work. We have sought increases only when we were convinced they were vital to our mission.

For the upcoming year, we will be requesting an actual budget increase of roughly 6% once last year's appropriated but unfunded salary increases and benefits are accounted for. Even with that requested increase, however, I must call to your attention the fact that the judicial branch budget still represents less than 1% of the state budget.

On the other hand, I call to your attention the fact that the judiciary is an instrument of the state that provides revenue to various units of government. For fiscal year 2006 revenues collected by the courts of this state were more than 503 million dollars, some of which will go to our cities and counties. And more than 86 million of those funds will go directly into the general fund.

I thank you for your support in the past. Last year, for example, you generously created four desperately needed Superior Court judgeships, and we are deeply appreciative. I only ask this year that you continue to work with us to provide the people of Georgia with a judicial system that meets their needs.

COMMISSION ON CHILDREN, MARRIAGE AND FAMILY LAW

I have saved the discussion of family cases for the last because I hope that my thoughts on this subject will stay with you the longest and because it touches my heart the most.

It is difficult to exaggerate the impact that the decline of the two-parent family and the increase in the number of domestic relations cases in the last 20 years has had on the trial court dockets of this state. Divorce has now become a common phenomenon. We now live in a country where over one-third of all of our children are born to unmarried women and where 40% of the children of divorce do not see their father in a typical year. Our prisons are full of young men who have fathered children they will never be able to support. And there are too many children in foster care.

Family cases now account for more than 65% of all civil cases filed in our superior courts, and they now outnumber all felony and misdemeanor criminal cases combined. Some of the driving forces behind the growing domestic relations caseload, in addition to divorce and soaring rates of unmarried childbearing, include child support issues, drug and alcohol abuse, domestic violence, juvenile delinquency and neglect.

These cases are costly, both directly and indirectly. A study conducted in the year 2000 estimated that divorce proceedings alone cost the state and its citizens between 922 million and one billion dollars. The same study demonstrated that the “average” single divorce cost both state and federal governments approximately \$30,000 in direct and indirect costs. Direct costs included expenditures for child support establishment and enforcement, Medicaid costs and Temporary Assistance to Needy Families. Indirect costs included costs associated with drug problems, criminality, mental health services as well as other social problems.

Our trial judges are working hard trying to fill a void that has resulted from this sad cultural phenomenon. They are being asked to do this even though they typically lack the resources and expertise to do much more than pick up the broken pieces after families have already fallen apart. The late great Robin Nash, a former Juvenile Court judge, aptly described the role that judges play in all this as “misery managers.” And like doctors on a battlefield frantically working to bandage the wounded and save the dying, they know that the prognosis is not good for most of the families that pass through their courtrooms. That’s because, as yet, no concerted effort has been made to formulate a comprehensive plan-of-action that will go to the heart of this crisis in our judicial system.

We want to change all of this.

Last June my colleagues and I on the Supreme Court voted unanimously to create the Georgia Supreme Court Commission on Children, Marriage and Family Law to address Georgia's domestic relations case problems. Some of the members of the commission include leaders of your body.

The commission will study the legal consequences associated with the growing fragmentation of Georgia families. We also plan to work with both our juvenile courts and our state Department of Human Resources to ensure that child deprivation cases be given the priority in the courts that they deserve. The purpose of the commission is not to advocate for any specific legal response to these problems – that is, after all, in your province – but only to highlight the need for some response.

Some people don't believe there is anything that can be done to help our ailing families. But as leaders in the legislative branch you and I both know that if we look for solutions we will find them. And what we do not yet know how to accomplish, we can learn. Problems, no matter how difficult, must be addressed and not merely endured. To that end, I ask that you join with us in refusing to accept the decline of the two-parent family as inevitable. Because if we do it means we are prepared to accept the weakening of civil society and the spread of social and economic equality; it means we are prepared to accept more and more fatherlessness; it means we are prepared to accept the suffering of children. We can and we must do everything we can to strengthen our families because it is the best way we have to facilitate responsibility, ensure equality, and shape self-governing citizens who may never need to see the inside of a court of law.

Thank you for listening as well as for your continued support. God bless and keep you all.

Representative Keen of the 179th moved that the Joint Session be hereby dissolved.

The motion prevailed, and the Speaker of the House announced the Joint Session dissolved.

Pursuant to the provisions of a previously adopted motion, the Senate stood adjourned until 10:00 a.m. Thursday, January 24, 2007.